

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061030

DATE : October 30, 2006

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 6,977,327

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch - PK 3-910

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:


SPE: Anne Marie Grunberg

Art Unit 1638



Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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on April 17, 2006

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Typed or printed name of person signing Certificate

43,525

Registration Number, if applicable

515-254-2823

Telephone Number

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1. Request for Certificate of Correction of Applicant Mistake - 2 copies
2. Certificate of Correction - 2 copies

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

APR 24 2006

Kruse, David

From: Green, Angela
Sent: Thursday, October 26, 2006 9:25 PM
To: Kruse, David
Subject: IFW 10/768342 6977327

Please respond to Req. for correction ASAP.

Once decision has been made on PTOL-306 and forwarded to scanning, a return message in Edan/Madras with comment stating "Response has been forwarded for scanning" is very much welcomed and appreciated.

PUBS CofC *oh*
Angela Green
ST9A22 Loca 7580
703.308.9380 ext. 123

Thank you for your attention to this matter.

10/768,342

The population of plants produced at each and any cycle of breeding is also an embodiment of the invention, and on average each such population would predictably consist of plants containing approximately 50% of its genes from variety XB55K04 in the first breeding cycle, 25% of its genes from variety XB55K04 in the second breeding cycle, 12.5% of its genes from variety XB55K04 in the third breeding cycle, 6.25% in the fourth breeding cycle, and so on. However, in each case the use of variety XB55K04 provides a benefit, because linkage groups of XB55K04 are retained in the progeny varieties. Specifically, an embodiment of the invention is a process for making a population of XB55K04 progeny plants comprising obtaining or producing a first generation progeny seed comprising the plant of XB55K04 as a parent, growing said first generation progeny seed to produce first generation plants, obtaining self or sib pollinated seed from said first generation plants, and growing the self or sib pollinated seed to obtain a population of XB55K04 progeny plants.

The population of XB55K04 progeny soybean plants produced by this method will retain the expected genetic contribution of XB55K04 described above. A variety selected from the population of XB55K04 progeny plants produced by this method is an embodiment, and such variety may be further characterized by its molecular marker identity or similarity to XB55K04.

In this manner, the invention encompasses a process for making a substantially homozygous XB55K04 progeny plant comprising the steps of obtaining or producing a first generation progeny seed wherein a parent of said first generation progeny seed is a plant of variety XB55K04, growing said first generation progeny seed to produce a first generation plant and obtaining self or sib pollinated seed from said first generation soybean plant, and producing successive filial generations to obtain a substantially homozygous XB55K04 progeny plant. Also an embodiment of this invention is the substantially homozygous XB55K04 progeny plant produced by this method.

Applicant(s) have made a deposit of at least 2500 seeds of Soybean Variety XB55K04 with the American Type Culture Collection (ATCC), Manassas, Va. 20110 USA, ATCC Deposit No. PTA-6437. The seeds deposited with the ATCC on Dec. 14, 2004 were taken from the deposit maintained by Pioneer Hi-Bred International, Inc., 7100 NW 62nd Avenue, Johnston, Iowa 50131-1000 since prior to the filing date of this application. Access to this deposit will be available during the pendency of the application to the Commissioner of Patents and Trademarks and persons determined by the Commissioner to be entitled thereto upon request. Upon allowance of any claims in the application, the Applicant(s) will make the deposit available to the public pursuant to 37 CFR 1.808. This deposit of Soybean Variety XB55K04 will be maintained in the ATCC depository, which is a public depository, for a period of 30 years, or 5 years after the most recent request, or for the enforceable life of the patent, whichever is longer, and will be replaced if it becomes

nonviable during that period. Additionally, Applicant(s) have or will satisfy all the requirements of 37 C.F.R. §§1.801-1.809, including providing an indication of the viability of the sample upon deposit. Applicant(s) have no authority to waive any restrictions imposed by law on the transfer of biological material or its transportation in commerce. Applicant(s) do not waive any infringement of their rights granted under this patent or under the Plant Variety Protection Act (7 USC 2321 et seq.).

All publications, patents and patent applications mentioned in the specification are indicative of the level of those skilled in the art to which this invention pertains. All such publications, patents and patent applications are incorporated by reference herein for the purpose cited to the same extent as if each was specifically and individually indicated to be incorporated by reference herein.

The foregoing invention has been described in detail by way of illustration and example for purpose of clarity and understanding. As is readily apparent to one skilled in the art, the foregoing are only some of the methods and compositions that illustrate the embodiments of the foregoing invention. It will be apparent to those of ordinary skill in the art that variations, changes, modifications and alterations may be applied to the compositions and/or methods described herein without departing from the true spirit, concept and scope of the invention.

What is claimed is:

1. A seed of soybean variety XB55K04, representative seed of said soybean variety XB55K04 having been deposited under ATCC Accession No.
2. A soybean plant, or a part thereof, produced by growing the seed of claim 1.
3. The soybean plant part of claim 2 wherein said part is pollen.
4. The soybean plant part of claim 2 wherein said part is an ovule.
5. A tissue culture of protoplasts or regenerable cells produced from the plant of claim 2.
6. The tissue culture according to claim 5, wherein the cells or protoplasts are produced from a plant tissue selected from the group consisting of: leaf, pollen, cotyledon, hypocotyl, embryos, root, pod, flower, shoot and stem.
7. A soybean plant regenerated from the tissue culture of claim 5 having all the morphological and physiological characteristics of soybean variety XB55K04, representative seed of said soybean variety XB55K04 having been deposited under ATCC Accession No.
8. A method for producing a progeny soybean plant comprising
 - crossing the plant of claim 2 with a different soybean plant,
 - harvesting the resultant soybean seed, and
 - growing a soybean plant.

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